

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

JOSEPH E. JURKENAS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	1:20-cv-00183-JDL
)	
CITY OF BREWER, et al.,)	
)	
Defendants.)	

**ORDER ACCEPTING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

Joseph E. and Patricia M. Jurkenas brought this action in May 2020 on behalf of themselves and the Estate of Marie L. Pozniak, Patricia’s mother (the “Estate,” and collectively with the Jurkenases, “Plaintiffs”), asserting claims against the City of Brewer and two city employees (collectively, the “Defendants”) arising from a series of events that culminated in the Plaintiffs’ removal from their home in Brewer (ECF Nos. 1, 6). On September 8, 2020, the Defendants filed a Motion to Dismiss and/or Motion for Judgment on the Pleadings (ECF No. 16).

On December 29, 2020, United States Magistrate Judge John C. Nivison filed a Recommended Decision on the motion (ECF No. 31), pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2021) and Fed. R. Civ. P. 72(b).¹ The Plaintiffs filed an objection on January 12, 2021 (ECF No. 35).

¹ The Magistrate Judge previously conducted an initial review of the Complaint under 28 U.S.C.A. 1915(e)(2) (West 2021) and, on July 23, 2020, filed a Report and Recommendation with the Court (ECF No. 9). The Plaintiffs subsequently filed an objection to that Recommended Decision (ECF No. 10), which the Magistrate Judge addressed in his second Recommended Decision (ECF No. 31). As the Magistrate Judge observed, his second Recommended Decision (ECF No. 31) entirely replaces his prior Recommended Decision (ECF No. 9); the prior Recommended Decision is therefore moot and I do not address it further.

I have reviewed and considered the Recommended Decision, together with the entire record, and have made a *de novo* determination of all matters adjudicated by the Magistrate Judge. I concur with the recommendations of the Magistrate Judge for the reasons set forth in his Recommended Decision and determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge (ECF No. 31) is hereby **ACCEPTED**. The Defendants' Motion to Dismiss (ECF No. 16) is **DENIED IN PART** as to the Plaintiffs' claim under 42 U.S.C.A. § 1983 arising from the Defendants' alleged failure to hold a hearing on whether their home constituted a "dangerous building" under Maine law. The motion is otherwise **GRANTED IN PART**, and all of the Plaintiffs' other claims are **DISMISSED**.

In light of this disposition, the Defendants' Motion for Judgment on the Pleadings (ECF No. 16) is **DENIED AS MOOT**, and the prior Recommended Decision of the Magistrate Judge (ECF No. 9) is **REJECTED AS MOOT**.

SO ORDERED.

Dated this 29th day of March, 2021

/s/ JON D. LEVY
CHIEF U.S. DISTRICT JUDGE